

Application No. 10/817,158
Reply to the Office Action dated February 13, 2007
Amendment dated August 13, 2007

RECEIVED
CENTRAL FAX CENTER
AUG 13 2007

REMARKS

The present amendment and request for reconsideration is filed in response to the Office Action mailed February 13, 2007, the period of response having been extended until August 13, 2007. Claims 1-7, 9-18 and 20-41 remain in this application, new claims 42-83 have been added.

Applicant submits that amended claim 1 is supported by previously presented claim 1 and paragraph [0035].

Applicant submits that new claims 42-47 are supported by paragraph [0043].

Applicant submits that new claim 48 is supported by paragraph [0035] along with paragraphs [0065] to [0071].

Applicant submits that new claims 49-83 are supported by previously presented claims 1-38 and paragraph [0043].

In the Office Action, the Examiner rejected claims 1, 22, 37 and 38 under 35 U.S.C. 102(b) as being anticipated by Hoffer (4,750,499). Respectfully, the Applicant disagrees with the Examiner for the following reason.

Currently amended claim 1 recites:

"An implantable nerve stimulation system, comprising:

at least one nerve cuff so configured as to receiving part of a nerve, the nerve cuff having electrodes therein positioned in the vicinity of nerve fibers;

a control unit including:

a power source;

Application No. 10/817,158

Reply to the Office Action dated February 13, 2007

Amendment dated August 13, 2007

a processor;

at least one signal conditioning circuit so connected to the electrodes of the at least one nerve cuff as to receive signals from the nerve fibers;

at least one stimulation circuit so connected to the electrodes of the at least one nerve cuff as to deliver stimulation pulses to the nerve fibers;

wherein the processor is so configured as to a) selectively activate the at least one signal conditioning circuit in order to detect at least one gait phase transition event and b) activate the at least one stimulation circuit in response to the detection of the at least one gait phase transition event." [Emphasis added]

The Applicant submits that Hoffer does not disclose or teach the detection of at least one gait phase transition event and activating at least one stimulation circuit in response to the detection of the at least one gait phase transition event.

The Applicant therefore submits that amended claim 1 is not anticipated by Hoffer. Furthermore, the Applicant submits that claims 22, 37 and 38 directly or indirectly depend on allowable claim 1 and are also not anticipated by Hoffer for at least the same reason.

In the Office Action, the Examiner rejected claims 2-5, 9, 16-18 and 31-34 under 35 U.S.C. 103(a) as being unpatentable over Hoffer. Respectfully, the Applicant disagrees with the Examiner for the following reason.

The Applicant reiterates the arguments of amended claim 1.

The Applicant submits that claims 2-5, 9, 16-18 and 31-34 directly or indirectly dependant on allowable claim 1 are patentable over Hoffer for at least the same reason.

Application No. 10/817,158

Reply to the Office Action dated February 13, 2007

Amendment dated August 13, 2007

RECEIVED
CENTRAL FAX CENTER

AUG 13 2007

New claim 49 is drawn to an implantable nerve stimulation system as claimed in previously presented claim 1 incorporating limitations which may be found in previously presented claims 6, 10 and 20.

As the Examiner has found at page 4 of his report that the subject matter of claims 6, 10 and 20 would be allowable if rewritten in independent form, the Applicant therefore submits that claim 49 is not anticipated by Hoffer. Furthermore, the Applicant submits that claims 50-83 directly or indirectly depend on allowable claim 49 and are also not anticipated by Hoffer for at least the same reason.

Applicant respectfully requests favorable reconsideration of the present application.

If any fees are due in connection with this application, the Patent Office is authorized to deduct the fees from Deposit Account No. 19-1351. If such withdrawal is made, please indicate the attorney docket number (39438-401600) on the account statement.

Respectfully Submitted,

By 
Joseph H. Herron
PTO Reg. No. 53,019
Seyfarth Shaw LLP
Attorneys for Assignee
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603-5577
312-460-5000
312-460-7000 (fax)